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10/534,965	05/16/2005	Scott Allan Kendall	PU020454	3630
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Joseph J. Laks			SHILEHEDA, JAMES R	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,965	<b>Applicant(s)</b> KENDALL ET AL.
	<b>Examiner</b> JAMES SHELEHEDA	<b>Art Unit</b> 2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 June 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,3-11,13-21 and 23-30 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3-11,13-21 and 23-30 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/06)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 11 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Thibadeau et al. (Thibadeau) (5,432,542) (of record).

As to claim 1, Thibadeau discloses a method for controlling an apparatus having an emergency alert function (column 4, lines 37-69), comprising:

detecting a condition indicating relocation of said apparatus (column 14, lines 42-60) after a power interruption to said apparatus (column 15, lines 19-26);

enabling a predetermined output associated with said emergency alert function responsive to detecting said condition (column 14, line 42-column 15, line 18); and

enabling a user to provide updated information associated with said emergency alert function (column 9, lines 57-66) responsive to detecting said condition (column 9, lines 57-66 and column 14, line 42-column 15, line 18).

As to claims 11 and 21, Thibadeau discloses a television having an emergency alert function (column 7, lines 13-28 and column 11, lines 14-35), comprising:

tuning means for tuning signals (television receiving tuning to television channels; column 7, lines 13-53) including emergency alert signals capable of activating said emergency alert function (column 11, lines 14-35);

processing means (Fig. 6; column 15, lines 5-27) for detecting a condition indicating relocation of said apparatus (column 14, lines 42-60) after a power interruption to said apparatus (column 15, lines 19-26), and for enabling a predetermined output associated with said emergency alert function responsive to detecting said condition (column 14, line 42-column 15, line 18); and

enabling a user to provide updated information associated with said emergency alert function (column 9, lines 57-66) responsive to detecting said condition (column 9, lines 57-66 and column 14, line 42-column 15, line 18).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 4, 13, 14, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thibadeau.

As to claims 3, 13 and 23, while Thibadeau discloses location information (column 7, line 54-column 8, line 60), he fails to specifically disclose a FIPS location code.

The examiner takes Official Notice that it was notoriously well known in art at the time of invention by applicant to utilize FIPS location codes when providing location specific messages to receivers for the typical benefit of utilizing an established, widely known standard for messaging.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Thibadeau's system to include FIPS locations codes for the typical benefit of utilizing an established, widely known standard for providing location information.

As to claims 4, 14 and 24, while Thibadeau discloses emergency alerts (column 11, lines 14-35), he fails to specifically disclose a type of emergency event.

The examiner takes Official Notice that it was notoriously well known in art at the time of invention by applicant to allow users to specify the types of alert messages they want to receive for the typical benefit of allowing the user to customize the messaging system, so as to only receive the alert messages they desire.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Thibadeau's system to include a type of emergency events for the typical benefit of allowing the user to customize the messaging system, so as to only receive the alert messages they desire.

5. Claims 5-7, 15-17 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thibadeau as applied to claims 1, 11 and 21 above, and further in view of Lau et al. (Lau) (5,592,173) (of record).

As to claims 5, 15 and 25, while Thibadeau discloses wherein detecting said condition includes a power interruption (column 15, lines 5-20), he fails to specifically disclose detecting a duration of said power interruption.

In an analogous art, Lau discloses a receiver for detecting location information (column 4, lines 30-54) which will detect a duration of a power interruption (sleep mode duration; column 6, line 65-column 7, line 10) and which will then identify the location of the device after the duration is exceeded (returning to normal mode for detecting GPS information; column 6, line 27-column 7, line 34) for the typical benefit of reducing the power consumption of the device by using a defined duration standby mode (column 4, lines 30-54).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Thibadeau's system to include detecting a duration of said power interruption, as taught by Lau, for the typical benefit of reducing the power consumption of the device by using a defined duration standby mode.

As to claims 6, 16 and 26, Thibadeau and Lau disclose wherein said condition is detected if said duration exceeds a predetermined time period (see Lau at column 6, line 27-column 7, line 34 and column 4, lines 30-54).

As to claim 7, 17 and 27, while Thibadeau and Lau disclose wherein said duration is detecting using a clock (see Lau at column 7, lines 1-12), they fail to specifically disclose using a vertical blanking interval of a television signal.

The examiner takes Official Notice that it was notoriously well known in art at the time of invention by applicant to utilize a television VBI signal to transmit clock signals, ensuring the receiver has accurate timing information and is synchronized with the rest of the system.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Thibadeau and Lau's system to include using a vertical blanking interval of a television signal for the typical benefit of ensuring the receiver has accurate timing information and is synchronized with the rest of the system, without requiring a separate timer within the receiver.

**6.** Claims 8, 18 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thibadeau and Lau as applied to claims 5, 15 and 25 above, and further in view of Lamb (6,329,904) (of record).

As to claims 8, 18 and 28, while Thibadeau and Lau disclose detecting said condition, they fail to specifically disclose detecting signal strength on a previously identified frequency channel associated with said emergency alert function.

In an analogous art, Lamb discloses an emergency alert apparatus (column 3, lines 33-53) which will detect signal strength on a previously identified frequency channel associated with said emergency alert function and compare the signal strength

with other channels (column 7, lines 35-52, column 8, lines 59-67 and column13, lines 1-28) for the typical benefit of identifying the channel with the strongest signal so as to ensure the emergency signal is received when needed (column 13 ,lines 1-46).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Thibadeau and Lau's system to include detecting signal strength on a previously identified frequency channel associated with said emergency alert function, as taught by Lamb, for the typical benefit of identifying the channel with the strongest signal so as to ensure the emergency signal is received when needed.

7. Claims 9, 10, 19, 20, 29, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thibadeau as applied to claims 1, 11 and 21 above, and further in view of Lamb.

As to claims 9, 19 and 29, while Thibadeau discloses detecting said condition, he fails to specifically disclose detecting signal strength on a previously identified frequency channel associated with said emergency alert function.

In an analogous art, Lamb discloses an emergency alert apparatus (column 3, lines 33-53) which will detect signal strength on a previously identified frequency channel associated with said emergency alert function and compare the signal strength with other channels (column 7, lines 35-52, column 8, lines 59-67 and column13, lines 1-28) for the typical benefit of identifying the channel with the strongest signal so as to ensure the emergency signal is received when needed (column 13 ,lines 1-46).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Thibadeau's system to include detecting signal strength on a previously identified frequency channel associated with said emergency alert function, as taught by Lamb, for the typical benefit of identifying the channel with the strongest signal so as to ensure the emergency signal is received when needed.

As to claim 10, 20 and 30, Thibadeau and Lamb disclose wherein said first previously identified frequency channel has previously exhibited higher signal strength relative to a second previously identified frequency channel associated with said emergency alert function (see Lamb at column 7, lines 35-52, column 8, lines 59-67 and column 13, lines 1-28); and

said condition is detected if said second previously identified frequency channel exhibits higher signal strength relative to said first previously identified frequency channel (see Lamb at column 13, lines 1-46).

***Response to Arguments***

8. Applicant's arguments filed 06/09/08 have been fully considered but they are not persuasive.

In response to applicant's arguments regarding "enabling a user to provided updated information associated with the emergency alert function responsive to detecting said condition", it is noted that Thibadeau discloses wherein the user may provide updated information to the alert system *at any time* (column 9, lines 56-66).

This information may be used to define points of interest which are then used by the alert function to provide alerts to the user.

Further, Thibadeau discloses wherein the device will retain its location information across transient events such as a power failure (column 15, lines 18-20). Thus, *after* a power interruption, the device will *continue* to operate and indicate relocation of the device. Therefore, applicant's arguments are not convincing, as Thibadeau meets the current claim limitations. Moreover, the claim only reads to "enable" not to actually signal an alert when the condition is met. Thus, the claims are still too broad.

#### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with

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all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Sheleheda  
Examiner, Art Unit 2623

JS

/Chris Kelley/  
Supervisory Patent Examiner, Art Unit 2623